IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2006

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THE HON'BLE MR.JUSTICE P.K.MISRA
AND
THE HON'BLE MR.JUSTICE R.SUDHAKAR

W.P.NO.3272 of 2006
AND
W.P.M.P.No.3442 of 2006

1. The Secretary to Government
   Municipal Administration and
   Water Supply Department,
   Fort St. George, Chennai 9.

2. The Commissioner of
   Municipal Administration,
   Ezhilagam, Chepauk, Chennai 5. ..Petitioners

-vs-

1. S.Ponraj

2. The Registrar,
   Tamil Nadu Administrative Tribunal,
   Chennai 104. ..Respondents

Writ petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the O.A.No.657 of 2003 dated 15.03.2004 and quash the same.

For Petitioners : Mr.V.Subbarayan
For Respondent-1: Mr.V.Radhakrishnan

O R D E R

(Order of the Court was made by P.K.MISRA, J).

Heard Mr.V.Subbarayan, learned counsel for the petitioners and Mr.Radhakrishnan, learned counsel for the first respondent.

2. The present respondent No.1 was working as Town Planning Officer, Grade I in Alandur Municipality. He had purchased certain

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property in the months of October 1998 and January 1999 without giving any prior intimation to the department. Subsequently, he gave such intimation in June 1999. Thereafter, just few days before he was to retire on attaining the age of superannuation, disciplinary proceedings were started and he was placed under suspension. The allegation in the disciplinary proceedings was to the effect that he had purchased the property without giving any intimation to the departmental authorities as contemplated in the rules and he had borrowed money from his wife. The enquiry officer found that the property had been purchased without giving any intimation and intimation had been given only subsequently. However, the enquiry officer also found that the delinquent officer had given the explanation to the effect that vendor of the property was going away to America and therefore, there was some urgency in purchasing the property and therefore, the enquiry officer recommended to exonerate the delinquent officer. However, the disciplinary authority, differing from the findings of the enquiry officer held that the delinquent had violated the rules and passed an order of dismissal from service. The first respondent filed an appeal, which having been dismissed, original application No.657 of 2003 was filed before the Tribunal. The Tribunal took into account the fact that even though the delinquent officer had not given prior intimation, he had subsequently voluntarily intimated about the transaction. The Tribunal also observed the fact that enquiry officer had suggested that the proceedings may be dropped. Keeping in view these special circumstances, the Tribunal interfered with the order of dismissal dated 03.01.2002 and modified that punishment into one of stoppage of increment for three years without cumulative effect and further directed that such amount may be adjusted from the terminal benefits of the present first respondent as he had already crossed the age of retirement. Such order which was passed on 15.03.2004 has been challenged by the Secretary to Government, Municipal Administration and Water Supply Department, by filing a writ petition on 19.12.2005. In other words, the writ petition has been filed after a lapse of about one year and nine months.

3. The learned counsel appearing for the petitioner has vehemently contended that since there was an infraction of the rules, the Tribunal should not have interfered with the order of punishment. The learned counsel appearing for the first respondent on the other hand apart from supporting the observations given by the Tribunal has contended that the writ petition itself is filed after a long lapse of time. It is also pointed out by him that since the order of the Tribunal was not implemented, the present respondent No.1 had filed W.P.No.38395 of 2005 which was disposed of on 28.11.2005 by giving the following direction:-

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" In view of the above, the second respondent is directed to disburse the terminal benefits and pension payable to the petitioner, pursuant to the orders of the Tamil Nadu Administrative Tribunal dated 15.03.2003 passed in O.A.No.657 of 2003 together with interest within a period of six weeks from the date of receipt of a copy of this order, if there is no other legal impediment."

4. It appears that the present writ petition has been moved after such a direction was given by this Court and notice of contempt had been issued by the counsel.

5. After having heard counsel for both parties at length and after going through the orders passed by the Tribunal and connected papers, we do not think that it is a fit case where the order passed by the Tribunal should be interfered with, in exercise of jurisdiction under Article 226 of the Constitution of India. The Tribunal has considered all the relevant facts and circumstances and bona-fides of the transaction and had come to a particular conclusion. In such matters, the High Court does not act as the appellate authority over the order of the Tribunal. Therefore, we do not find any merit to interfere with the order.

6. Apart from the above, the writ petition itself is liable to be dismissed on the ground of laches. The present petitioner had kept quiet for about 21 months and only after receipt of the order passed by this Court earlier and initiation of contempt proceedings, this writ petition has been filed. No particular explanation has been furnished in the writ petition explaining the laches. For the aforesaid reasons, we do not find any merit in this writ petition and hence the same is dismissed. However, there will be no order as to costs. Consequently, connected W.P.M.P. is also dismissed. The learned counsel for the petitioner submitted that three months time may be allowed to comply with the order. Accordingly, we grant three months time.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai 104.

one cc to Mr.V.Radhakrishnan, advocate (SR.No.6502)

one cc to Govt., Pleader (SR.No.6305)

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